



1 her notice of lis pendens, and the Deed of Release and Reconveyance that were, at the least,  
2 groundless (Doc. 40). Although Defendant has filed several motions for reconsideration of  
3 this determination, all such motions have been denied. *See, e.g.*, Docs. 51, 56.

4 What the Court has not yet determined, however, is whether the Federal Home Loan  
5 Mortgage Corporation is the owner of the property or beneficial title holder thereto.  
6 According to the statute, only the owner or the beneficial title holder is entitled to the award  
7 of statutory damages. The Federal Home Loan Mortgage Corporation, has yet to establish  
8 that it is in such a position, and Defendant clearly contests it. Therefore, Plaintiff's motion  
9 for the award of statutory penalties and fees and costs is denied without prejudice until such  
10 time as the Plaintiff establishes that it was/is entitled to enforce the Note and Deed of Trust  
11 in this case pursuant to A.R.S. § 47-3309 and other possibly applicable Arizona law.

12 **IT IS THEREFORE ORDERED** denying the Motion for Judgment without  
13 prejudice (Doc. 52).

14 DATED this 5th day of October, 2010.

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17 G. Murray Snow  
18 United States District Judge  
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